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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

DISABILITY RIGHTS OREGON,
METROPOLITAN PUBLIC DEFENDER
SERVICES, INC., and A.J. MADISON,

Plaintiffs,

v.

PATRICK ALLEN, in his official capacity as
Director of the Oregon Health Authority, and
DOLORES MATTEUCCI, in her official
capacity as Superintendent of the Oregon State
Hospital,

Defendants.

Case No. 3:02-cv-00339-MO

DEFENDANTS' REQUEST TO PAUSE
ADMISSIONS FOR THE WEEK OF MAY
24, 2021

I. REQUEST TO PAUSE ADMISSIONS

Defendants Patrick Allen and Delores Matteucci are compelled to again ask this Court to grant leave permitting the Oregon State Hospital to pause admissions, for one week, due to a lack of beds available for a new cohort of patients. With this Court's permission, OSH paused admissions the week of April 19, and was able to admit patients the week of April 26, as well as the weeks of May 3, May 10, and May 17. And OSH is continuing to work hard to find placements for every patient who can be discharged. But, as OSH previously advised the Court,

the admission of a large number of new patients every week can and sometimes does outpace OSH's ability to discharge and assist patients into community settings or to return them for the resumption of their criminal cases. (OSH must place either 19 or 23 patients every week into a setting outside the hospital, in order to keep up with the influx of new admissions.) As a result, OSH does not have enough open beds this week for the patients on the AN1 admissions unit, which means that that unit cannot be turned over for an admissions cohort this week.

OSH therefore requests leave to pause admissions the week of May 24, but anticipates that it can resume admissions with a new cohort next week, the week of May 31. Counsel for Plaintiff Metropolitan Public Defenders has advised that MPD opposes this request.

II. SUMMARY OF FACTS

Since May of last year, with few exceptions (each of them permitted by this Court), OSH has accepted a cohort of 19-23 new patients into the Hospital. Each cohort, pursuant to this Court's directive, has entered through a special admissions unit, and remained quarantined there together until they tested negative for COVID-19, at which time they were moved into other beds in the main Hospital. That cohort's admissions unit is then cleaned and prepared for another cohort. In this way, OSH accepts a new group of patients every week in a single cohort, and moves a cohort into the main Hospital every week.

In 2021, the number of new orders has increased markedly, with a high of 82 orders per month in the first three months. The lowest number of new orders in a given month so far has been 61, which is close to the *maximum* number OSH received in any month in 2017. OSH received 73 new orders in April, and admitted 61 patients in April, notwithstanding a one-week pause in admissions, allowed by this Court. (*See Wehr Dec.*, ¶ 10.)

But, this week, patients already receiving services at the hospital are occupying all of the available beds. There is no room elsewhere in the Hospital for the cohort currently in the admissions unit designated AN1; OSH's only option is to keep those patients in that same unit. That means that OSH cannot place a new cohort in AN1 this week. (*See Wehr Dec.*, ¶ 13.)

As before, OSH is operating close to 95 percent managed capacity, which is significantly higher than is optimal for psychiatric hospitals, but is necessary to admit as many people who require the hospital's services as possible. OSH is now functionally at the limit of the beds that can be made available even under 95% capacity. (*See* Wehr Dec., ¶ 15, Ex. 1.)

OSH staff are continuing to work to find placements for those patients in the hospital who no longer require a hospital level of care, in the opinion of the hospital's medical staff. Nine such patients (admitted under ORS 167.370) have remained at the hospital because the judge presiding over the patient's case does not agree with OSH that the patient is ready for community restoration or prepared to assist in the defense of their case, and the judge therefore has not issued the orders needed for a discharge. Seventeen others remain because diligent efforts to find community placements have not yet yielded placements. (*See* Wehr Dec., ¶ 19.)

OHA and OSH have approached the legislature seeking funding for additional beds and resources both in this biennium (ending June 30, 2021) and in the upcoming 2021-23 biennium; some of those proposals are being considered by the Legislative Assembly. OSH has submitted a proposal to open up the only two units on the Junction City campus that are not already in use. If that proposal were adopted and funded by the legislature, it would assist OSH with placement possibilities in the future, although it will require hiring and physical adaptation of the units, and will not result in a short-term solution. (*See* Declaration of Patrick Allen, ECF No. 200, dated April 13, 2021.)

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III. CONCLUSION

For the reasons outlined above, OSH seeks this Court's leave to pause admissions this week.

DATED May 24, 2021.

Respectfully submitted,

ELLEN F. ROSENBLUM
Attorney General

s/ Sheila H. Potter

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